United Nations E/C.12/ZAF/Q/1

Economic and Social Council

Distr.: General
1 November 2017

Original: English
English, French and Spanish only

Committee on Economic, Social and Cultural Rights

List of issues in relation to the initial report of South Africa*

I. General information

1. In addition to the information provided in paragraph 38 of the State party's report (E/C.12/ZAF/1), please provide information on the free legal aid programmes of the State party. Please clarify whether those programmes are publicly funded; whether they are accessible by migrants, refugees and asylum seekers; and whether they assist cases relating to economic, social cultural rights. Please also provide relevant statistical data.

II. Issues relating to the general provisions of the Covenant (arts. 1-5)

2. Please provide information on any measures, especially legislative measures, taken or envisaged by the State party to officially recognize indigenous peoples, and to remove the classification of indigenous peoples who are currently classified as "coloured". Please provide information on statistical data on indigenous peoples in the State party, including their numbers and distribution across the territory, and statistical data relating to their enjoyment of economic, social and cultural rights, in particular in the areas of employment, social security, health and education.

3. Please provide information on the efforts made to address concerns raised about the traditional and Khoi-San leadership bill regarding the criteria for recognition set out in section 5 (1) and the re-establishment of Bantustan boundaries. Please clarify how the bill will accommodate those indigenous communities that do not recognize the authority of a traditional chief and what measures are envisaged to ensure their political representation. Please also provide information on the measures taken to ensure that their free, prior and informed consent is obtained prior to any decision being made affecting the land and territories of indigenous peoples.

Maximum available resources (art. 2 (1))

4. Please provide information on the evolution over the past 10 years of:

(a) The proportion of people below the international poverty line and below the poverty line as defined at national level, and the levels of inequality, defined as the ratio between total income accruing to the richest decile of the population and the total income of the 40 per cent poorest in the population;

(b) The proportion of the public revenue that is financed through taxes;

* *Adopted by the pre-sessional working group at its sixty-first session (9-13 October 2017).*

GE.17-18294(E)

Please recycle

(c) The rates of taxes levied on corporate profits and on personal incomes, and the VAT rate (exclusive of VAT on luxury items, tobacco/alcohol or sugary drinks/snacks, and gasoline), respectively; and the percentage of total revenues from personal income taxes that are collected from the richest decile of the population;

(d) Public expenses as a percentage of gross domestic product and, within total public expenses, the proportion of the public budget that is dedicated to social priorities (education, food, health, water and sanitation and housing);

(e) Inflation-adjusted absolute levels of spending on those social priorities.

5. In its report, the State party mentions that corruption levels are high (see para. 20). Please provide information on the legislative and institutional framework to combat corruption at the federal and provincial levels. Please also provide information on the cases filed with anti-corruption bodies, particularly those brought against high-level officials, including the number of cases filed, investigated and prosecuted and the sentences passed on those involved in corruption.

Non-discrimination (art. 2 (2))

6. Please specify the considerations that have led to the postponement of the entry into force of chapter 5 of the Promotion of Equality and Prevention of Unfair Discrimination Act since its adoption in 2000. Please also provide information on the steps taken to give effect to chapter 5.

7. Please provide information on the measures taken to effectively implement the Alteration of Sex Description and Sex Status Act. Please also provide information on the number of surgeries performed on intersex infants and children; on the measures taken to address the severe physical and mental risks facing intersex infants and children undergoing such surgery without free and informed consent; and whether the State party intends to address the problems caused by the performance of such surgery.

8. Please provide information on the refugees' amendment bill, in particular the amendments to sections 22 (8) and 1 (b) of the Refugees Act No. 130 of 1998, in the light of the statement adopted on 24 February 2017 by the Committee on the duties of States towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights (E/C.12/2017/1). Please also provide information on the measures taken to reduce the stateless situation of children and indicate whether the State party considers reviewing the Births and Deaths Registration Act 1992 and the Immigration Act 2004 in that regard.

Equal rights of men and women (art. 3)

9. Please provide information on the measures taken by the State party to increase the number of women, particularly non-white women, in decision-making positions in the public sector, including the Government, the legislature and the judiciary at the national and local levels, as well as in the private sector, and include relevant statistical data.

III. Issues relating to the specific provisions of the Covenant (arts. 6-15)

Right to work (art. 6)

10. Please provide information on the measures taken to curb the very high unemployment rates, particularly among black persons, women, persons with disabilities and young people. Please also provide information on the implementation of the Skills Development Act, 1998, and the Employment Services Act, 2014, the progress made so far and the challenges encountered; and the evolution of the funding of the institutions in charge of implementation. Please also provide statistical data for the past five years, disaggregated by gender, age, race and location, on labour force participation, employment rates and unemployment rates.

11. Please indicate the prevalence of employment in the informal economy and on the labour and social protection provided to those working in the informal economy. Please also provide information on employment through the temporary employment services (or labour brokers), including statistical data, disaggregated by gender and sector, on the number of temporary employment services and the number of workers employed by them. Please also provide information on the measures taken to regulate temporary employment services and to protect the rights of workers employed by them, including the implementation of section 198 (A) of the Labour Relations Amendment Act, 2014.

Right to just and favourable conditions of work (art. 7)

12. Please provide information on the progress made towards ensuring that all workers are paid a salary equal to at least a minimum wage. Please indicate whether the proposals of the National Minimum Wage Panel (see E/C.12/ZAF/1, para. 73) to set the initial level of national minimum wage at 20 rand per hour or 3,500 rand per month have been implemented; whether that level is sufficient to provide workers and their families with a decent living; whether the level will be regularly indexed to the cost of living; whether all sectors will be covered, including in the informal economy; and which mechanisms have been set up to ensure full compliance.

13. Please clarify which challenges the full implementation of the principle of equal pay for work of equal value still faces in practice and whether the amendments to the Employment Equity Act in 2013, the employment equity regulations of 2014 and the code of good practice on equal pay remuneration for work of equal value have been effective. Please provide information on the compliance of employers with remedial action incorporated into the employment equity plans, with a view to eliminating disparities in remuneration and other discrimination based on gender or race.

14. Please provide information on the challenges facing the implementation of the 2014 Occupational Health and Safety Act. Since the Act does not apply to mines, mining areas or any mining works (as defined in the 1991 Minerals Act), please indicate which measures are taken in order to ensure the health and safety of workers in the sector. Please also provide information on the measures taken or envisaged to ensure that all workers, including domestic workers who are not covered under the Compensation for Occupational Injuries and Diseases Act, can claim and receive compensation for occupational injury.

15. Please indicate whether labour inspectors, in law and in practice, are empowered to enter and inspect workplaces, including on private properties such as homes and farms, without notice at any time, and clarify how the term "at any reasonable time" in section 65 (1) of the Basic Conditions of Employment Act is defined. Please provide information on the steps taken to increase the number of qualified labour inspectors and the funding allocated to labour inspection.

Trade union rights (art. 8)

16. Please provide information on the measures taken to prevent violent incidents during strike actions and on the conduct of investigations into such incidents, as well as on the follow-up to the recommendations of the Judicial Commission of Inquiry into the events at the Marikana Mine in Rustenburg. Please also provide information on the measures taken to ensure that workers in non-standard employment, including casual workers and workers employed by labour brokers, can join trade unions and on the effects of the Labour Relations Amendment Act in that regard.

Right to social security (art. 9)

17. With regard to the social security system of the State party, please provide information on:

(a) The coverage, take-up rates and amount of non-contributory benefits, including the older persons grant, the child support grant, the foster child grant, the disability grant, the care-dependency grant, grant-in-aid, and the war veteran grant;

(b) The steps taken to introduce mandatory contributions for retirement, death and disability benefits, as proposed by the National Economic Development and Labour Council (see E/C.12/ZAF/1, para. 81);

(c) The current coverage and take-up rates of the Unemployment Insurance Fund; the measures taken to ensure that all eligible employees are registered with the Fund; and the measures taken or envisaged to expand its coverage;

(d) Whether the State party intends to raise the level of the child support grant and the foster child grant;

(e) The measures taken to resolve the unclaimed former mineworkers' retirement benefits, which, according to information received, amounts to about 10 billion rand.

Protection of the family and children (art. 10)

18. Please provide information on the impact of phase III (2013-2017) of the child labour programme of action on the persistence of child labour, particularly in hazardous work, and whether there will be a follow-up to the programme. Please provide information on the occupational accidents and diseases involving children in the past five years, including relevant statistical data; on the measures taken to provide adequate compensation to child victims; and on the efforts made to prevent such accidents and diseases.

19. Please provide information on the progress made towards the adoption of the proposed women's empowerment and gender equality bill and the obstacles encountered.

20. The Committee refers to paragraph 87 of the State party report. Does the State party intend to amend the Marriages Act, 1961, particularly in order to remove the difference in treatment between women and men in section 26 and to remove the possibility of obtaining an exemption from the minimum age requirement to enter into marriage? Could the State party comment on the consequences of the lack of recognition under the Marriages Act of Muslim marriages? Is the understanding of the Committee correct that as a result of such failure, there is no legal age, registration or permission requirement in respect of minors contracting marriages in accordance with Islamic law?

Right to an adequate standard of living (art. 11)

21. Please provide information on:

(a) The impact of the integrated food security strategy for South Africa and the national policy on food and nutrition security on the reduction of hunger, particularly as it affects chronic malnutrition and stunting among children;

(b) The measures taken to reform food systems (see E/C.12/ZAF/1, para. 106, footnote 123), including those involving the private sector, and the progress made so far in enhancing the availability, accessibility and affordability of food for all;

(c) The efforts made to promote breastfeeding;

(d) The measures taken to implement the strategy for the prevention and control of obesity in South Africa, 2015-2020.

22. Please provide information on the outcome of the land reform policies put in place by the State party, in the form of redistribution, tenure reform and restitution, and indicate the challenges faced in implementing the policies and the measures taken or envisaged to overcome them. The Committee is particularly interested in efforts to implement the Extension of Security of Tenure Act of 1997 and to improve it further. Specifically:

(a) Does the Government track farm dweller/labour tenant evictions and the number of persons supported by the Government through its initiatives who are facing evictions or who have been evicted?

(b) What efforts has the State party made to *effectively implement the law*, including in terms of training for judges, prosecutors and law enforcement officials on the Act and allocation of sufficient budget for the implementation of the Act?

(c) Has the Land Rights Management Facility been able to ensure that legal assistance is provided to all farm dwellers and labour tenants facing eviction? Do the relevant government departments have sufficient resources to address notices of threatened evictions?

(d) Are all evicted farm dwellers provided with adequate alternative accommodation, including short-term shelters, with basic services?

(e) Does the State party intend to amend the Act with a view to providing for a clear and adequate obligation on providing alternative accommodation?

23. With regard to the right to housing, please provide information on:

(a) The measures taken to enhance coordination between the national, provincial and municipality governments in providing housing with basic services;

(b) The implementation of the finance-linked individual subsidy programme to address the situation of people who are not eligible for houses under reconstruction and development programme or for commercial housing loans;

(c) The intentions of the State party regarding the issue of the illegal sale of subsidized housing without the requisite title deeds (owing to the restrictions imposed under section 10A of the Housing Act 107 of 1997);

(d) The measures taken to ensure that evictions are carried out in accordance with relevant domestic laws and international human rights standards and statistical data on the numbers of evictions carried out and on the affected persons;

(e) The measures taken to address the situation of homeless people and backyard dwellers and the relevant statistical data.

24. Please provide information on the obstacles the State party faces in improving access to safe drinkable water and adequate sanitation facilities, particularly in informal settlements and rural areas. Please also provide statistical data, disaggregated by locality (province/district), race and gender.

Right to physical and mental health (art. 12)

25. Please provide information on health indicators and on access to health-care services, disaggregated by income group. Please also provide information on the steps taken or envisaged to expand the coverage of national health insurance and on the implementation of the 10-point plan (see E/C.12/ZAF/1, para. 121). Please further provide information on the measures taken to strengthen the community health worker programme, including target numbers and the treatment and working conditions of community health workers.

26. Please provide information on the measures taken to implement the national mental health policy framework and strategic plan 2013-2020, including the progress made so far and the challenges faced. Please also provide information on the implementation of the recommendations made by the Health Ombudsman with regard to its investigation of the deaths of 94 mental health patients in Gauteng.

27. Please provide information on the remaining gaps concerning access to sexual and reproductive health information and services, including modern contraceptives, particularly for women and adolescents, and the access to sanitary pads by girls and women in poor communities, and whether measures have been adopted to address those gaps. Please also indicate the reasons for the high prevalence of unsafe abortions and whether the State party intends to take measures to ensure that all abortions can be performed in safe conditions by qualified health practitioners.

28. Please provide information on the implementation of the comprehensive prevention, care and treatment programme to tackle the very high prevalence of HIV, including its impact on the reduction of mother-to-child transmission. Please include information on measures to prevent HIV among users of illicit drugs.

Right to education (arts. 13-14)

29. Please provide information on the measures taken by the State party to:

(a) Address the high dropout rates, particularly after grade 8;

(b) Improve the quality of education, including the qualification of school teachers and learning materials;

(c) Improve the academic achievement of students;

(d) Address the significant unspent budget allocated for the implementation of the accelerated school infrastructure delivery initiative;

(e) Address the issue of compulsory contributions at no-fee schools;

(f) Ensure inclusive education by the provision of reasonable accommodation and personal assistance for children with disabilities;

(g) Meet sanitary needs pertinent to girl students, including water and sanitation facilities.

Cultural rights (art. 15)

30. Please provide information on the measures taken to provide education in indigenous languages, particularly the Khoi, Nama and San languages, and on indigenous culture in the public school system and in public institutions.